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TO : Commissioner for Patents
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FROM : Oleg F. Kaplun, Esq. of Fay Kaplun & Marcin, LLP

DATE : October 29, 2007

SUBJECT : U.S. Patent Appln. Serial No. 10/014,195
for METHOD AND APPARATUS FOR RECOMMENDING ITEMS OF
INTEREST BASED ON STEREOTYPE PREFERENCES OF THIRD
PARTIES
Phillips Ref.: US 010575

NUMBER OF PAGES INCLUDING COVER : /3

MESSAGE:

Please see attached.

Attorney Docket No. US010575

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s)	:	Gutta et al.
Serial No.	:	10/014,195
Filing Date	:	November 13, 2001
For	:	METHOD AND APPARATUS FOR RECOMMENDING ITEMS OF INTEREST BASED ON STEREOTYPE PREFERENCES OF THIRD PARTIES
Group Art Unit	:	3622
Examiner	:	Raquel Alvarez
Confirmation No.	:	3005

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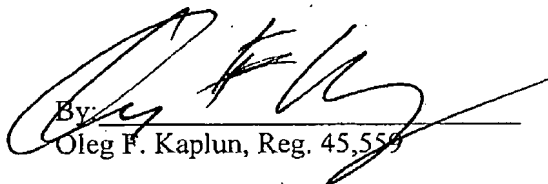P.O. Box 1450
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>   Oleg F. Kaplun (Reg. No. 45,559)

TRANSMITTAL

Transmitted herewith please find a Reply Brief in response to the Examiner's Answer mailed on August 28, 2007 for filing in the above-identified application. No fees are believed to be required. The Commissioner is hereby authorized to charge any additional required fees to the **Deposit Account of Fay Kaplun & Marcin, LLP No. 50-1492.** A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: October 29, 2007

By: _____
   Oleg F. Kaplun, Reg. 45,559

Attorney Docket No. US010575

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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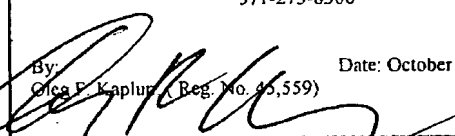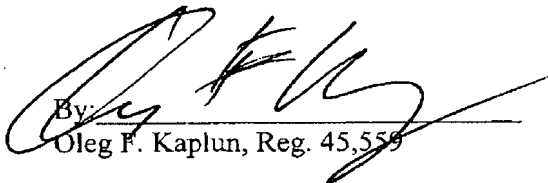By: _____
Oleg F. Kaplun, Reg. 45,559

Serial No.: 10/014,195
Attorney Docket No. US 010575

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
)	
Gutta et al.)	
)	
Serial No.: 10/014,195)	Group Art Unit: 3622
)	
Filed: November 13, 2001)	Examiner: Raquel Alvarez
)	
For: METHOD AND APPARATUS FOR)	**Board of Patent Appeals and**
RECOMMENDING ITEMS OF)	**Interferences**
INTEREST BASED ON)	
STEREOTYPE PREFERENCES OF)	
THIRD PARTIES)	
).	
Confirmation No.: 3005)	

Mail Stop: Appeal Brief - Patents
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Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. § 41.41

In response to the Examiner's Answer mailed on August 28, 2007 to the Appeal Brief filed July 11, 2007, and pursuant to 37 C.F.R. § 41.41, Appellants present this reply brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's rejection of claims 1-9, 18 and 20-24 in the final Office Action dated May 01, 2007 as clarified in the Examiner's Answer mailed August 28, 2007. The appealed claims are set forth in the attached Claims Appendix.

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1.   Grounds of Rejection to be Reviewed on Appeal

    I.   Whether claims 1-4, 6-9, 18, 20 and 21 are unpatentable under 35 U.S.C. § 102(e) over U.S. Patent No. 6,266,649 to Linden et al. (hereinafter "Linden").

    II.   Whether claims 5 and 22-24 are unpatentable under 35 U.S.C. § 103(a) over Linden.

2.   Argument

    I.   The Rejection of Claims 1-4, 6-9, 18, 20 and 21 Under 35 U.S.C. § 102(e) As Being Anticipated By Linden Should Be Reversed.

    In the Examiner's Answer, the Examiner maintained that it would have been obvious to one of ordinary skill in the art that all of the limitations of claims 1-4, 6-9, 18, 20 and 21 are taught by Linden.

    Linden is directed to a recommendation service that recommends items to users based on previous selections of said user. The service is designed to recommend products to a user from a merchant's website. To generate recommendations for the user, the service retrieves items from a table that are similar to items that are of interest to said user. The similar items are combined into one list and sorted to generate the list of recommended items. The service can use either previous purchase history of said user or the user can create multiple shopping carts. The service will recommend similar items based on either of these embodiments. In both embodiments, the system requires some previous history of the user to generate the list of recommended items. (See Linden, Abstract).

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A.   The Cited Patent Does Not Disclose In A Respective One
      Of Said Clusters Having A Distance Measure Closer
      To A Mean Of Said Cluster Than To A Mean Of Remaining
      <u>Ones Of Said Cluster, As Recited In Claim 1</u>

In the Examiner's Answer, the Examiner relates the sorting of a list in Linden by the recommendation score to the recited "wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters." (See 08/28/07 Examiner's Answer, p. 5). Specifically, the Examiner asserts that:

> In step 190, the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category (e.g., "science fiction," or "jazz") and recommend top item M from list (see Figure 5). As can be seen from above, the items from a group that are closer to a cluster or group of items are recommended over others that have negative scores or lower scores.

(See, Id.)

Appellants respectfully disagree with the Examiner's assertion.

The list in Linden is generated only at the time a recommendation is being made for the user. (See Linden, Fig. 5). There are no groups of items, or clusters, based on recommendations in Linden. In fact, the Examiner's assertion supports that Appellants' argument because the Examiner correctly states that in Linden certain items are deleted from the list based on various factors. These items are not placed into a separate cluster or group for recommendation purposes, but rather they are deleted from the generated recommendation list. There is only a single list of items sorted by the recommendation score of each item. That is, there is no teaching in Linden that this recommendation list has any clusters. Accordingly, since there are no clusters in the recommendation list of Linden, it cannot teach or suggest "wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters" as recited in claim 1.

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The Examiner further asserts that the relationship of the mean of the clusters in claim 1 is the same as items of fiction are related more to items of comedy than to items of non-fiction. (See 08/28/07 Examiner's Answer, p. 5-6). However, the Appellants respectfully submit that the Examiner is reading far beyond the bounds of Linden in making such assertions. There is no description in Linden of a relationship between items of fiction, items of comedy and items of non-fiction and there is surely no description that relates a distance measure to a mean of any particular groups of items. Claim 1, however, specifically recites, "said clusters having a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters." It is therefore impossible to make the comparison of recited mean of clusters from claim 1, to items of fiction and comedy from Linden.

Thus it is respectfully submitted that claim 1 is not taught or suggest by Linden. Therefore Applicants submit that claim 1 is patentable over Linden. Because claims 2-4 and 6-9 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1. Applicants submit that claims 18, 20 and 21 are also patentable for at least the reasons give above with respect to claim 1.

II.   The Rejection of Claims 5 and 22-24 Under 35 U.S.C. § 103(a) As Being Unpatentable Over Linden Should Be Reversed.

Because claims 5 and 22 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1. Because claim 23 depends from, and therefore includes all the limitations of claim 18, and claim 24 depends from, and therefore includes all of the limitations of claim 20, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 18 and 20.

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3.   Conclusion

For the reasons set forth above, Appellant respectfully requests that the Board reverse the

final rejections of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims

1-9, 18 and 20-24 are allowable.
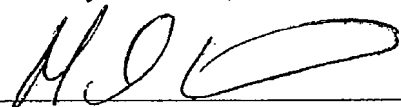
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Respectfully submitted,

Dated: October 23, 2007   By:_____
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Attorney Docket No. US 010575

CLAIMS APPENDIX

1.   (Previously Presented) A method for setting-up a user profile indicating preferences of a user, comprising executing the following operations in a data processing device:

partitioning third party selection history, indicating items that are selected by at least one third party, into clusters of items, said clusters being determined based on typical patterns of items selected by representative third-party users, said items being similar, wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters;

setting up said user profile with items from at least one selected cluster of items.

2.   (Previously Presented) The method of Claim 1, further comprising recommending items based on said user profile.

3.   (Previously Presented) The method of Claim 1, further comprising assigning a label to each of said clusters.

4.   (Previously Presented) The method of Claim 3, wherein said users selects said at least one cluster based on said assigned labels.

5.   (Previously Presented) The method of Claim 1, wherein said partitioning further comprises employing a k-means clustering routine.

6.   (Original) The method of Claim 1, wherein said user profile indicates viewing preferences of said user.

7.   (Original) The method of Claim 1, wherein said items are programs.

8.   (Original) The method of Claim 1, wherein said items are content.

9.   (Original) The method of Claim 1, wherein said items are products.

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18.   (Previously Presented) A system for setting-up a user profile indicating preferences of a user, comprising:

     a memory for storing computer readable code; and

     a processor operatively coupled to said memory, said processor configured to:

          partition third party selection history, indicating items that are selected by at least one third party, into clusters of items, said clusters being determined based on typical patterns of items selected by representative third-party users, said items being similar wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters;

          receive a selection from said user of at least one of said clusters; and

          setting up ate said user profile with items from said at least one selected cluster.

20.   (Previously Presented) An article of manufacture for updating a user profile indicating preferences of a user, comprising:

     a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

     a step to partition third party selection history, indicating items that are selected by at least one third party, into clusters of items, said clusters being determined based on typical patterns of items selected by representative third-party users, said items being similar wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters;

     a step to receive a selection from said user of at least one of said clusters; and

     a step to set-up said user profile with items from said at least one selected cluster.

21.   (Previously Presented) An article of manufacture recommending one or more available items to a user, comprising:

     a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

     a step to provide a clustered third party selection history to a user, said selection history

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indicating similar items that are selected by at least one third party, each of said clusters including similar items, the clusters being such that points items in one cluster are closer to the mean of that cluster than to the mean of any other cluster;

     a step to receive a selection from said user of at least one of said clusters; and

     a step to recommend items based on said selected clusters.

22.   (Previously Presented) The method of claim 1, comprising weighting items from the user's own selection history more heavily than items from the third party selection history.

23.   (Previously Presented) The system of claim 18, comprising weighting items from the user's own selection history more heavily than items from the third party selection history.

24.   (Previously Presented) The article of manufacture of claim 20, comprising weighting items from the user's own selection history more heavily than items from the third party selection history.

Serial No.: 10/014,195
Attorney Docket No. US 010575

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

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RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related

thereto.

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